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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,939	07/25/2003	Michael Robert Samuels	AD6900USNA	3671
23906	7590	09/28/2005	EXAMINER	VAN, QUANG T
E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			ART UNIT	PAPER NUMBER
			3742	DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/627,939	SAMUELS ET AL.
	Examiner Quang T. Van	Art Unit 3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 18-28 and 33 is/are allowed.  
 6) Claim(s) 1,5,7,10,11 and 17 is/are rejected.  
 7) Claim(s) 2-4,6,8,9,12-16 and 29-32 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 28 December 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 7, 10-11 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al (US 6,641,878). Suzuki discloses a holding container comprising a composition which comprises a mixture of a thermoplastic polymer (col. 8, line 12) whose melting point and/or glass transition point is about 250<sup>0</sup>C or more (col. 8, line 15) or a thermoset polymer whose softening point is about 250<sup>0</sup>C or more, a heating effective amount of a microwave susceptor (col. 8, lines 16-24), provided that said composition has a thermal conductivity of about 0.70 W/m<sup>0</sup>K or more (col. 8, lines 56-57).

3. Claims 2-4, 6,8-9, 12-16 and 29-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 18-28 and 33 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or suggest the step of contacting an item to be cooked with a composition which comprises a mixture of a thermoplastic polymer whose melting point and/or glass transition point is about 250<sup>0</sup>C or more, or thermoset

polymer whose softening point is about 250<sup>0</sup>C or more, a heating effective amount of a microwave susceptor, provided that said composition has a thermal conductivity of about 0.7 W/m<sup>0</sup>K or more, and the step of exposing food in contact with said composition to microwave radiation as recited in claims 18-28 and 33.

6. Claims 2-4, 6,8-9, 12-16 and 29-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 18-28 and 33 are allowed.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not show or suggest the step of contacting an item to be cooked with a composition which comprises a mixture of a thermoplastic polymer whose melting point and/or glass transition point is about 250<sup>0</sup>C or more, or thermoset polymer whose softening point is about 250<sup>0</sup>C or more, a heating effective amount of a microwave susceptor, provided that said composition has a thermal conductivity of about 0.7 W/m<sup>0</sup>K or more, and the step of exposing food in contact with said composition to microwave radiation as recited in claims 18-28 and 33.

***Response to Amendment***

9. Applicant's arguments filed 08/17/2005 have been fully considered but they are not persuasive.

Applicants argue "the housing Suzuki discloses is for holding certain types of electronic devices, especially radiation sources" recited in REMARKS page 2, lines 14-15. For the broadest reasonable interpretation, in the claims, applicants only claimed

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ovenware being a container for use to contain a heating object, and the heating object can be food or industrial device etc... Suzuki discloses a holding container comprising a composition, which comprises a mixture of a thermoplastic polymer (col. 8, line 12), a heating effective amount of a microwave susceptor (col. 8, lines 16-24), provided that said composition has a thermal conductivity of about  $0.70 \text{ W/m}^0\text{K}$  or more (col. 8, lines 56-57). As long as Suzuki's reference read on the claimed limitations and therefore, Suzuki's reference is anticipated.

Applicants also argue "the housing of Suzuki are not suitable for heating or cooking food because they are too small" recited in REMARKS page 2, lines 21-22, and "Ovenware, or any item used for heating or cooking foods, must have several shape and "dimensional" attributes to be useful" recited in REMARKS page 3, lines 16-17. The Examiner disagrees. Applicants argued was much narrower than what appeared or recited in the claims. Noted that 37CFR § 1.111 (b) states, "A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentable distinguishes them from the references does not comply with the requirements of this section". Applicants have failed to specifically point out how the language of the claims patentable distinguishes them from the reference.

1. This is a continuation of applicant's earlier Application No. 10/627,939. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL**

even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 7:00Pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QV

September 22, 2005

  
Quang T Van  
Primary Examiner  
Art Unit 3742